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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,272	02/11/2005	Henrik Knobel	43315-213809	9951
26694	7590	04/14/2009		
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20043-9998			EXAMINER PRAKASAM, RAMYA G	
			ART UNIT	PAPER NUMBER
			3651	
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			04/14/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/524,272

Applicant(s)

KNOBEL ET AL.

Examiner

RAMYA PRAKASAM

Art Unit

3651

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/16/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 11-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Charhut (US RE37,829).

Charhut discloses a method of selecting an object out of a plurality of objects moving in a product flow direction in an operation area for transport to a predetermined location, the method comprising:

- Detecting the plurality of moving objects present in the operation area and moving in a product flow direction (See Figure 2 - objects moving along conveyors);
- Selecting an object to be picked from the plurality of moving objects in the operation area, wherein selecting the object comprises:
 - defining a sort direction for each of the plurality of moving objects present in the operation area, wherein the sort direction is at an angle to the flow direction (See Column 8, lines 48-52 – towards the location of the bins);

- defining a passageway along the sort direction of each of said plurality of moving objects (Slots);
 - determining whether any other of said plurality of moving objects penetrates each passageway for each of said plurality of moving objects (See Column 8, lines 48-62), and
 - selecting an object from said plurality of moving objects of which the defined passageway is free from penetration of any other of said plurality of objects (See Column 8, lines 48-62); and
- picking the selected object from the plurality of moving objects by moving the selected object in the defined passageway in the sort direction for transport to the predetermined location (See Column 8, lines 48-62).
- Picking the selected object prior to moving the selected object (See Column 8, lines 48-62-object is picked before determination of an empty slot);
- Wherein the object is picked without disturbing other objects in the operation area (See Column 8, lines 48-62- other objects continue to move).
- Wherein the sort direction is perpendicular to the flow direction (See Figure 2).
- Wherein the product flow direction is circular (See Figure 2).
- Wherein product flow direction is vertical (See Figure 2).
- Determining information regarding the objects, the information comprising size, position, speed or orientation (sorting based position).

- Repeatedly moving the objects in the flow direction through the operation area (See Column 8, lines 48-62).
- Wherein the flow direction is horizontal (See Figure 2).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Charhut in view of Bennett (US Patent No. 6,988,350)

Charhut discloses all claimed limitations, except for a system where selecting an object comprises selecting an object based upon speed. Bennett discloses the selection of an object based upon speed (See Column 7, lines 15-24) for the purpose of determining the pick up position of the article (See Column 7, lines 15-24). It would have been obvious to a person of ordinary skill in the art at the time of applicant's invention to modify Charhut by utilizing a system wherein the selection of an object based upon speed for the purpose of determining the pick up position of the article

Response to Arguments

5. Applicant's arguments with respect to the rejection(s) of claims under 35 USC 102(b) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Charhut and Bennett.

Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **RAMYA PRAKASAM** whose telephone number is (571)272-6011. The examiner can normally be reached on Monday - Thursday, 9am - 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene Crawford can be reached on (571)272-6911. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651

4/12/2009
RGP